

Federal Emergency Management Agency, DHS

§ 7.933

activity or to the achievement of a statutory objective.

§ 7.923 Burden of proof for exceptions.

The burden of proving that an age distinction or other action falls within the exceptions outlined in §§ 7.921 and 7.922 is on the recipient of Federal financial assistance.

§ 7.924 Affirmative action by recipient.

Even in the absence of a finding of discrimination, a recipient may take affirmative action to overcome the effects of conditions that resulted in the limited participation in the recipient's program or activity on the basis of age.

§ 7.925 Special benefits for children and the elderly.

If a recipient operating a program or activity provides special benefits to the elderly or to children, such use of age distinctions shall be presumed to be necessary to the normal operation of the program or activity, notwithstanding the provisions of § 7.921.

[55 FR 23078, June 6, 1990, as amended at 68 FR 51380, Aug. 26, 2003]

§ 7.926 Age distinctions contained in FEMA regulations.

Any age distinctions contained in a rule or regulation issued by FEMA shall be presumed to be necessary to the achievement of a statutory objective of the program or activity to which the rule or regulation applies, notwithstanding the provisions of § 7.921.

[55 FR 23078, June 6, 1990, as amended at 68 FR 51380, Aug. 26, 2003]

DUTIES OF FEMA RECIPIENTS

§ 7.930 General responsibilities.

Each FEMA recipient has primary responsibility to ensure that its programs or activities are in compliance with the Act and this regulation, and shall take steps to eliminate violations of the Act. A recipient also has responsibility to maintain records, provide information, and to afford FEMA access to its records to the extent FEMA finds necessary to determine whether

the recipient is in compliance with the Act and this regulation.

[55 FR 23078, June 6, 1990, as amended at 68 FR 51380, Aug. 26, 2003]

§ 7.931 Notice to subrecipients and beneficiaries.

(a) Where a recipient passes on Federal financial assistance from FEMA to subrecipients, the recipient shall provide the subrecipients written notice of their obligations under the Act and this regulation.

(b) Each recipient shall make necessary information about the Act and this regulation available to its beneficiaries in order to inform them about the protection against discrimination provided by the Act and this regulation.

[55 FR 23078, June 6, 1990, as amended at 68 FR 51380, Aug. 26, 2003]

§ 7.932 Assurance of compliance and recipient assessment of age distinctions.

(a) Each recipient of Federal financial assistance from FEMA shall sign a written assurance as specified by FEMA that it will comply with Act and this regulation.

(b) Recipient assessment of age distinctions. (1) As part of the compliance review under § 7.940 or complaint investigation under § 7.943, FEMA may require a recipient employing the equivalent of fifteen or more employees to complete written evaluation, in a manner specified by the responsible Agency official, of any age distinction imposed in its program or activity receiving Federal financial assistance from FEMA to assess the recipient's compliance with the Act.

(2) Whenever an assessment indicates a violation of the Act and the FEMA regulations, the recipient shall take corrective action.

§ 7.933 Information requirement.

Each recipient shall:

(a) Keep records in a form acceptable to FEMA and containing information which FEMA determines are necessary to ascertain whether the recipient is complying with the Act and this regulation.

(b) Provide to FEMA, upon request, information and reports which FEMA

§ 7.940

determines are necessary to ascertain whether the recipient is complying with the Act and this regulation.

(c) Permit FEMA reasonable access to the books, records, accounts, and other recipient facilities and sources of information to the extent FEMA determines is necessary to ascertain whether the recipient is complying with the Act and this regulation.

INVESTIGATION, CONCILIATION, AND ENFORCEMENT PROCEDURES

§ 7.940 Compliance reviews.

(a) FEMA may conduct compliance reviews and preaward reviews or use other similar procedures that will permit it to investigate and correct violations of the Act and this regulation. FEMA may conduct these reviews even in the absence of a complaint against a recipient. The reviews may be as comprehensive as necessary to determine whether a violation of the Act and this regulation has occurred.

(b) If a compliance review or preaward review indicates a violation of the Act or this regulation, FEMA will attempt to achieve voluntary compliance with the Act. If voluntary compliance cannot be achieved, FEMA will arrange for enforcement as described in § 7.945.

§ 7.941 Complaints.

(a) Any person, individually or as a member of a class or on behalf of others, may file a complaint with FEMA, alleging discrimination prohibited by the Act or these regulations occurring after the date of final adoption of this rule. A complainant shall file a complaint within 180 days from the date the complainant first had knowledge of the alleged act of discrimination. However, for good cause showing, FEMA may extend this time limit.

(b) FEMA will consider the date a complaint is filed to be the date upon which the complaint is sufficient to be processed. A complaint is deemed "sufficient" when it contains particulars (e.g., names, addresses, and telephone numbers of parties involved; date(s) of alleged discrimination; kind(s) of alleged discrimination) upon which to begin an investigation.

44 CFR Ch. I (10–1–09 Edition)

(c) FEMA will attempt to facilitate the filing of complaints wherever possible, including taking the following measures:

(1) Accepting as a sufficient complaint any written statement which identifies the parties involved and the date the complainant first had knowledge of the alleged violation, describes generally the action or practice complained of, and is signed by the complainant.

(2) Freely permitting a complainant to add information to the complaint to meet the requirements of a sufficient complaint.

(3) Notifying the complainant and the recipient of their rights and obligations under the complaint procedure, including the right to have a representative at all stages of the complaint procedure.

(4) Notifying the complainant and the recipient (or their representatives) of their right to contact FEMA for information and assistance regarding the complaint resolution process.

(d) FEMA will return to the complainant any complaint outside the jurisdiction of this regulation, and will state the reason(s) why it is outside the jurisdiction of this regulation.

§ 7.942 Mediation.

(a) FEMA will promptly refer to a mediation agency designated by the Administrator all sufficient complaints that:

(1) Fall within the jurisdiction of the Act and this regulation, unless the age distinction complained of is clearly within an exception; and,

(2) Contain all information necessary for further processing.

(b) Both the complainant and the recipient shall participate in the mediation process to the extent necessary to reach an agreement or for the mediator to make an informed judgment that an agreement is not possible.

(c) If the complainant and the recipient reach an agreement, the mediator shall prepare a written statement of the agreement and have the complainant and the recipient sign it. The mediator shall send a copy of the agreement to FEMA. FEMA will take no further action on the complaint unless the